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<p style="text-align: right;">Page 148</p> <p>1 to Rick Coury and you told him that Suzanne 2 Walker had said "Up yours" in the ladies' room 3 you also told him about other things that were 4 happening that you found objectionable?</p> <p>5 A Yes.</p> <p>6 Q Okay. What else did you tell him about?</p> <p>7 A Rubber bands and paper clips being thrown, 8 the tops of yogurt containers being thrown in a 9 frisbee manner, the mouse pad being thrown right 10 outside my cube.</p> <p>11 Q Other than the rubber bands and the paper 12 clips and the yogurt tops and the mouse pads, did 13 you complain about anything else being thrown?</p> <p>14 A Yes.</p> <p>15 Q What else?</p> <p>16 A A paper airplane being -- was sailed or flew into my cube and flew by my eyes, close to my eyes, in my line of vision.</p> <p>17 Q Anything else?</p> <p>18 A I believe that's it.</p> <p>19 Q Okay. Is there any reason why you 20 wouldn't remember something else that happened?</p> <p>21 A Is there any -- I don't understand the 22 question.</p>	<p style="text-align: right;">Page 149</p> <p>1 thrown around at the same time as there were ones 2 that were going into your cube?</p> <p>3 A I was only aware of the ones that came in 4 my cube.</p> <p>5 Q Did you see at any time, even if it wasn't 6 on this particular time, paper clips or rubber 7 bands being thrown around generally in the 8 office?</p> <p>9 A It was not a general practice.</p> <p>10 Q Okay. Did you see them at any time?</p> <p>11 A Excuse me. The question again?</p> <p>12 Q At any time did you see paper clips or 13 rubber bands being thrown around the office other 14 than the times when you say they were being 15 thrown at you?</p> <p>16 A No.</p> <p>17 Q Okay. Why is it you believe they were 18 being thrown at you?</p> <p>19 A Because they came within my personal 20 space, my vicinity, close to my body.</p> <p>21 Q Did you see Ed Sobel throwing rubber bands 22 at you?</p> <p>23 A I saw him shooting them. I said throwing, 24 but I meant shooting. Yes.</p>
<p style="text-align: right;">Page 149</p> <p>1 Q I'm trying to figure out if you're -- I'm 2 trying to make sure that you've told me 3 everything you remember, and I'm just saying is 4 there some reason today that you might remember 5 something that occurred?</p> <p>6 A I couldn't answer that.</p> <p>7 Q Okay. With regard to the rubber bands and 8 the paper clips, do you know who was throwing 9 them?</p> <p>10 A Yes.</p> <p>11 Q Who?</p> <p>12 A Ed Sobel.</p> <p>13 Q Just Ed Sobel?</p> <p>14 A Owen Davies.</p> <p>15 Q Is there anyone else?</p> <p>16 A In general or just at me?</p> <p>17 Q Let's just go with in general.</p> <p>18 A There's no one else.</p> <p>19 Q Okay. When you said they were throwing 20 rubber bands and paper clips, were they only 21 throwing them at you?</p> <p>22 A I only recall the ones that sailed in my 23 cube while I was there.</p> <p>24 Q So there could have been other ones being</p>	<p style="text-align: right;">Page 151</p> <p>1 Q Was he aiming at you?</p> <p>2 A He was aiming toward my cube and I was 3 there, so I would say yes.</p> <p>4 Q Could you see him aiming at you?</p> <p>5 A Yes.</p> <p>6 Q Could you see when -- Was Mr. Sobel also 7 throwing paper clips?</p> <p>8 A Yes.</p> <p>9 Q Was he aiming those at you?</p> <p>10 A Some were, yes.</p> <p>11 Q When you say "some were," what does -- how 12 are you making that distinction?</p> <p>13 A Sometimes they fell out of the rubber 14 band.</p> <p>15 Q Okay.</p> <p>16 A Like you prime the rubber band to put the 17 paper clip in there --</p> <p>18 Q Okay.</p> <p>19 A -- sometimes they fell out --</p> <p>20 Q So he would --</p> <p>21 A -- and only the rubber band would project.</p> <p>22 Q Okay. So the action that you're 23 describing, are you saying that Mr. Sobel and 24 Mr. Davies would take paper clips, put a rubber</p>

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1 band around one end, draw it back in order to use
 2 it as a base to shoot the rubber band?

3 A Correct.

4 Q Okay. And sometimes in releasing the
 5 rubber band, in addition to the rubber band
 6 flying, the paper clip would fly as well?

7 A Correct.

8 Q So they weren't just taking paper clips
 9 and just pegging them in your office?

10 A No, they were not.

11 Q Okay. So if they were using a -- a paper
 12 clip and paper clip through -- I'm sorry. If the
 13 paper clip came into your office, it was because
 14 they were using it as a slingshot for the rubber
 15 band?

16 A Correct.

17 MS. HILL: Objection to "they." Could you
 18 clarify who "they" is, please.

19 Q Ms. Griffith, do you know who I'm talking
 20 about when I say "they"?

21 A I -- I thought Owen Davies and Ed Sobel.

22 Q Correct. That's who I was talking about
 23 and I think we were talking about during that
 24 whole time. If at any time you don't understand

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1 Q So you just sat there?

2 A I continued to work.

3 Q Right. But you didn't move?

4 A Sometimes I did.

5 Q I guess what I'm asking you is did you
 6 ever get up from your desk where you were working
 7 and leave your cubicle --

8 A Yes.

9 Q -- at the time they were throwing rubber
 10 bands paper clips?

11 A Yes.

12 Q Where did you go?

13 A The ladies' room, the copy room.

14 Q Did you ever complain about the rubber
 15 bands and the paper clips being thrown when you
 16 got up and left your cubicle?

17 A No.

18 Q At any point did you complain about the
 19 rubber bands and the paper clips that Mr. Sobel
 20 and Mr. Davies were throwing?

21 A Yes.

22 Q When?

23 A To Rick Coury.

24 Q When?

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1 what I'm saying, please make sure to let me know,
 2 and I'll clarify. Okay?

3 A Okay.

4 Q Thanks.

5 Other than -- Strike that.

6 Mr. Davies, did you see him aim rubber
 7 bands at you?

8 A Yes.

9 Q And was he standing up and aiming them
 10 over into your cubicle, or what was he doing?

11 A Yes, he was.

12 Q Okay. And was Mr. Sobel doing the same
 13 thing, standing up and aiming them into your
 14 cubicle?

15 A When I saw, yes.

16 Q Okay. Did you say anything to them?

17 A No.

18 Q You never said "Stop"?

19 A No.

20 Q You never said "I think that's
 21 inappropriate"?

22 A No.

23 Q What did you do?

24 A I continued to work.

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1 A When I complained about Suzanne screaming
 2 "Up yours" in my face.

3 Q Okay. Did you believe Mr. Sobel's and
 4 Mr. Davies' actions with the rubber bands were
 5 motivated by racial animus?

6 A Yes.

7 Q Why?

8 A It was the atmosphere and it was the
 9 type -- They weren't doing it to the other female
 10 members in our group, and they were -- I just
 11 believed it.

12 Q Were they doing it to the other males in
 13 the group?

14 A Not that I know of.

15 Q You were the only one that you know of
 16 that Mr. Sobel and Mr. Davies fired rubbers bands
 17 or paper clips at?

18 A Correct.

19 Q Okay. Where, with regard to where your
 20 cubicle was, was the cubicle of Mr. Sobel?

21 A It was behind me.

22 Q Okay. So you were adjoining?

23 A No. It was behind me and an aisle over to
 24 the right.

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1 A Correct.		1 did not break anything. But it had.	
2 Q Who threw the paper airplane?		2 Q Did she say why she made the change in the	
3 A Ed Sobel.		3 code?	
4 Q How do you know that?		4 A She did not say.	
5 A He stood -- He was on -- He was in the		5 Q Did you ask her why?	
6 cube next to mine, and he stood up and he sailed		6 A Yes, I did.	
7 the -- the paper airplane toward Suzanne, who was		7 Q And what did she say?	
8 sitting behind me.		8 A She didn't answer that.	
9 Q Okay. So Ed Sobel stood up, threw a paper		9 Q Okay. Did you complain about the fact	
10 airplane aiming for Suzanne Walker --		10 that Suzanne Walker changed the code in your	
11 A Correct.		11 program?	
12 Q -- and it --		12 A Yes, I did.	
13 A In her direction.		13 Q To whom did you complain?	
14 Q -- and it landed in your cubicle?		14 A Ed Freeman.	
15 A Right. Took a swing and...		15 Q When did you complain?	
16 Q When was the -- When did Mr. Sobel throw		16 A The very day that I discovered it.	
17 the paper airplane with regard to the meeting		17 Q Okay. And what did Mr. Freeman do?	
18 that -- the group meeting that Mr. Coury had?		18 A He was a bystander in the con -- in the	
19 A Before.		19 conversation that I had with Suzanne, and I was	
20 (Discussion off the record.)		20 justifying why my code should be returned the way	
21 Q Did anyone throw anything after Rick Coury		21 it was because it worked according to the specs	
22 had the group meeting?		22 that I was given.	
23 A No, I don't believe so.		23 Q Did Ms. Walker have access to people's	
24 Q Okay.		24 computers to change their code?	
	Page 161		Page 163
1 A No.		1 A Yes.	
2 Q Let's go back to Suzanne Walker. Okay?		2 Q Do you know if she changed code in other	
3 A Okay.		3 people's programs?	
4 Q After Suzanne Walker said "Up yours" for		4 A I do not know.	
5 the first time in the ladies' room around 1996,		5 Q The program in which she changed the code,	
6 what was the next time that you felt you had a		6 was that the program that the two of you were	
7 hostile encounter with her?		7 working on?	
8 A When she changed the code in my program		8 A Correct.	
9 and said she did not.		9 Q Okay. And for that program she was senior	
10 Q And do you have an idea -- Was this in		10 to you, meaning she had higher rank?	
11 1996?		11 A Correct.	
12 A I would say 1996.		12 Q After the incident when Ms. Walker changed	
13 Q Was this before or after Mr. Freeman made		13 your code, when was the next time you had an	
14 the tar baby comment?		14 interaction with her that you felt was hostile?	
15 A This was before.		15 (Pause.)	
16 Q How do you know that she changed the code		16 A When she wanted to know what assignment I	
17 in your program?		17 was working on and why.	
18 A When I -- When I confronted her about it		18 Q Okay. Was this the first incident you	
19 she admitted. First she said she didn't change		19 were telling me about, or is this another one?	
20 anything. And I had a back-up copy of my code,		20 A This is another one.	
21 and I showed her a print-out where there was a		21 Q Okay. So she asked you about what program	
22 code change from the date stamp on the file. And		22 you were working on and why?	
23 she admitted that she made that change, and she		23 A Correct.	
24 justified it by saying that she needed -- that it		24 Q Was this in 1996?	

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1 A I'd say around 1996, 1997.
 2 Q Okay. Was it after Mr. Griffith — I'm
 3 sorry. Was it after Mr. Freeman made the tar
 4 baby comment?
 5 A It was before.
 6 Q Okay. Why was she asking you what program
 7 you were working on?
 8 A That's what I asked her. "Why?"
 9 Q And what was her response?
 10 A "Why are you asking me why?"
 11 Q Okay. And did you say something in
 12 return?
 13 A I said "Because you're asking me, and I
 14 want to know why."
 15 Q Okay. Did she say anything?
 16 A Other than "You know why."
 17 Q Did you know why?
 18 A Yes.
 19 Q And why was that?
 20 A Because Ed Freeman told me to do it. He
 21 gave me my assignment.
 22 Q Okay. I'm confused.
 23 You testified that Ms. Walker asked you
 24 why you were working on a particular program.

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1 you're working on this"? Was that the end of her
 2 conversation with you at that time?
 3 A Yes.
 4 Q Did you complain about that incident?
 5 A No.
 6 Q Okay. Why did you think that was hostile?
 7 A Because of the tone and — of the
 8 conversation.
 9 Q And why did you think that had to do with
 10 your race?
 11 A Others were not treated that way.
 12 Q By Suzanne?
 13 A By Suzanne.
 14 Q Could it have been that she just didn't
 15 care for your personality?
 16 A I couldn't speculate on — on that.
 17 Q Did you consider that?
 18 A Excuse me.
 19 Q Did you consider that it could have been
 20 that she just really didn't care for your
 21 personality as opposed to disliking you because
 22 you were black?
 23 A I don't know how to answer that. I —
 24 Q Okay. And —

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1 A Correct.
 2 Q And in response you said "Why are you
 3 asking me what program I'm working on?"
 4 A Correct.
 5 Q And she said "You know why I'm asking you
 6 what program you're working on?"
 7 A Correct.
 8 Q And your response — Strike that.
 9 Why did she believe that you knew why she
 10 was asking you what program you were working on?
 11 A I could not tell you that.
 12 Q Was there something special about the
 13 program you were working on?
 14 A I could not tell you that.
 15 Q Okay. Was she supervising your work on
 16 that program?
 17 A No.
 18 Q Was she working with you on that program?
 19 A No.
 20 Q Had she been working on that program
 21 before you were told to work on that program?
 22 A I don't know.
 23 Q Was that the end of your conversation, her
 24 saying to you "You know why I'm asking you why

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1 A I tried to work professionally with her
 2 when I had to and even when I didn't.
 3 Q Okay. But what I'm asking you is when —
 4 You said definitively you believe that she was
 5 engaging with you in this way because she
 6 disliked you because you were black.
 7 And my question is when you decided that
 8 the reason why she was interacting with you in
 9 this way was because you were black did you
 10 consider that maybe she just didn't care for your
 11 personality and it didn't have anything to do
 12 with your race?
 13 A I did not because I — because of the way
 14 Suzanne treated other people and the way she
 15 treated me. I don't believe — She never had,
 16 that I know of, a grievance with me. And I
 17 didn't have any interactions with her unless I
 18 had to.
 19 Q By not having a grievance with you do you
 20 mean that to your knowledge you don't know why
 21 she would have reason to dislike you?
 22 A Correct.
 23 Q And so your conclusion was, because you
 24 didn't know why she would have reason to dislike

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1 you, that she must dislike you because you were
2 black?

3 A Say that again, please.

4 MS. MOORE: Can you read it back.
5 (Record read.)

6 A I don't know if it was my conclusion, but
7 I know that I was being treated differently than
8 what she was treating others.

9 Q Okay. And you believed that the reason
10 you were being treated differently was because
11 you were black?

12 A Yes.

13 Q Okay. Other than changing the code in the
14 program, the comment about "Up yours" and the
15 interaction that we just discussed about her
16 questioning you about why you were working on a
17 particular program, was there any other incident
18 you had with Suzanne Walker that you felt was
19 hostile or motivated by race?

20 A No.

21 Q Did you believe that the incident with
22 Ms. Walker that started our discussion about her
23 where she said she didn't want to work on a
24 program with you and referred you to Ed Freeman,

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1 A And I also complained when she changed my
2 code, when she changed the code in the -- in the
3 part of the program that I was responsible for.

4 Q Other than these two times, did you ever
5 complain about Ms. Walker? I'm sorry. And the
6 time to Mr. Coury.

7 So other than the time to Mr. Freeman when
8 you complained about Ms. Walker with regard to
9 her saying that Mr. Freeman didn't want her
10 working in the group, when you complained about
11 Ms. Walker changing the code in your program and
12 when you complained about Ms. Walker saying "Up
13 yours" to Mr. Coury, did you ever complain about
14 Ms. Walker?

15 A No.

16 Q How else do you believe you were
17 discriminated against based on your race while
18 you were at CU?

19 A Other people were allowed to take day --
20 take training during the daytime.

21 Q Who was allowed to take training during
22 the daytime?

23 A Suzanne Walker. I can't recall everyone
24 in the group. Rick -- Rick Canton, MaryAnn

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1 was that a time that you believed your
2 interaction was based on race discrimination?

3 A Yes.

4 Q Okay. Did you end up working with
5 Ms. Walker on that program, this one where she
6 told you if you didn't -- she didn't want to work
7 with you and if you had a question about it to
8 talk to Mr. Freeman?

9 A Yes.

10 Q Okay. Did you work with her on any other
11 program after that time?

12 A I don't believe so.

13 Q Okay. Other than complaining to Mr. Coury
14 about Ms. Walker's comment to you in or around
15 1996 in the ladies' room where she said "Up
16 yours," did you ever complain to another manager
17 about Ms. Walker?

18 A Ed Freeman.

19 Q And when did you complain to Mr. Freeman
20 about Ms. Walker?

21 A When she announced that Ed Freeman did not
22 want me working on the project and that he didn't
23 want me working in the group.

24 Q Okay.

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1 Russo. I can't remember. There were a few other
2 people in the group. I can't recall their names.

3 Q We'll come back to them.

4 A And also Aihua Dai was allowed to take day
5 courses for semesters and come in late, and Rick
6 Canton was allowed also to take courses for -- to
7 prepare him for certification.

8 And I was called upon to debug programs
9 that these people wrote and implemented. I was
10 called on to debug these programs without having
11 the same training that they had.

12 Q Let's go one by one.

13 What training did Suzanne Walker have that
14 you were denied?

15 A She had FileNet. She had -- I know of
16 FileNet. I don't know of all of the other things
17 that -- that she received training for.

18 Q Did you ask to have training on FileNet?

19 A Yes.

20 Q When?

21 A I believe it was around 1999.

22 Q Who did you ask to receive training in
23 FileNet?

24 A Monica Scanlon.

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1 Q Where was the training in FileNet held?		1 the rest, then it's a different story.
2 A They were off sites. I believe one was in		2 Q So it's your testimony that you were only
3 Chicago and another was in – It was on the west		3 coming to work sometime after 9 o'clock and
4 coast.		4 leaving sometime before 7 o'clock as requested by
5 Q Other than asking Ms. Scanlon in 1999 if		5 your doctor during a two-year span where you
6 you could have FileNet training, did you ask		6 needed to rest?
7 anyone else?		7 A I didn't say that.
8 A No.		8 Q Okay. When were you – When did your
9 Q What was Ms. Scanlon's response to you		9 doctor require to you come to work sometime after
10 requesting FileNet training?		10 9 o'clock and to leave sometime before 7 o'clock?
11 A She said "We'll see."		11 A That was the original – The original
12 Q Would you have been willing to travel to		12 accommodation agreement that Kathleen Moynihan,
13 Chicago to receive the training?		13 manager of personnel, wrote said that they
14 A Yes.		14 would – the company has decided to support my
15 Q Would you have been willing to travel to		15 doctor's recommendation that I work 8:45 to 5:45,
16 the west coast to receive the training?		16 I believe -- 8:30 to 5:45.
17 A Yes.		17 Q Okay.
18 Q Wasn't one of your requests of		18 A Those accom – That was not honored. That
19 accommodations that you not be forced to travel?		19 accommodation was not honored. I had an open-end
20 A That was not true.		20 day. I never knew what time I could go home
21 Q You didn't request to –		21 because of the various projects that came up that
22 A I did not.		22 were assigned to me. And I had no idea of
23 Q – not have to travel?		23 when – Sometimes I could finish my work around
24 A I did not.		24 7:30 or 8. Sometimes it was later.
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1 Q If you had gone to the FileNet class and		1 Q Okay. I just want you to stay focused on
2 the class had begun at 8 o'clock in the morning		2 the question that I'm asking.
3 and lasted until 8 o'clock at night, how would		3 A Okay.
4 you have managed to take the class?		4 Q Okay?
5 A We're speculating here?		5 The earliest time requested by your doctor
6 Q No. I'm simply asking you if a class –		6 for you to report to work was 8:30. Is that
7 if a class began – if the FileNet class began at		7 correct?
8 8 o'clock in the morning would you have been able		8 A I believe so.
9 to attend it?		9 Q And it's my understanding – And we'll
10 A I would say yes. Speculation, yes.		10 talk about it a little later – that as time went
11 Q Okay. But you weren't able to be at work		11 on your doctors requested that you work starting
12 at 8 o'clock in the morning?		12 after 8:30 all the way up until 10 o'clock in the
13 A Not if I worked until 9 or 9:30 the night		13 morning. Is that correct?
14 before.		14 A Correct.
15 Q But you requested and your doctor said you		15 Q What I'm asking you is that if you were
16 could work – that it was best for you to work		16 working restrictive hours from 8:30 until 5:45,
17 between – sometime after – reporting to work		17 how could you attend a class that lasted longer
18 sometime after 8 o'clock and stopping sometime		18 than those hours?
19 before 6 o'clock. Is that correct?		19 A I was not working restricted hours.
20 A That was months after I had endured, I		20 Q In 1999?
21 would say, two years of from 9 – from 8:45 until		21 A In 1999.
22 sometimes 9 o'clock or 9:30 at night on a regular		22 Q You were not working restricted hours?
23 basis. And because – due to my health issues I		23 A Correct.
24 needed the rest, and I didn't get it. Once I got		24 Q Okay. Do you remember any other programs

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1	Ms. Walker had other than FileNet that you were	1	A Not that I know of.
2	not able to — training you were not able to	2	Q Any other certification program she was
3	receive?	3	allowed to do that you were not allowed to do?
4	A Excuse me. Say that again.	4	A Not that I'm aware of.
5	Q Anything other — Any training other than	5	Q Aihua Dai, what was he permitted to do
6	FileNet that Ms. Walker had that you —	6	that you were not permitted to do —
7	A That I am aware of, of the training that	7	A Aihua —
8	was going around?	8	Q — as far as taking courses of being part
9	Q (Counsel nodded.)	9	of programs?
10	A No.	10	A I'm sorry. I interrupted you.
11	Q Rick Canton, what training did Mr. Canton	11	Q It's okay.
12	have that you did not have?	12	A What did you say?
13	A He received FileNet.	13	Q What program or course was Mr. Dai allowed
14	(Pause.)	14	to take that you were not allowed to take?
15	A That's the one that I'm aware of.	15	A Aihua Dai was allowed — According to
16	Q You mentioned he was part of a	16	Aihua Dai and what he told me, he was taking
17	certification program?	17	courses — day courses to complete his bachelor's
18	A He took a course to prepare to take the	18	degree.
19	Microsoft certification program.	19	Q Do you know what his bachelor's degree was
20	Q Who did Mr. Canton report to at that time?	20	in?
21	A I believe Monica Scanlon.	21	A No, I do not.
22	Q Did you ever request to take the prep	22	Q Did you ask if you could take classes to
23	course for the Microsoft certification program?	23	finish your bachelor's degree?
24	A No.	24	A No, I did not.
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1	Q Did you ever request to take the Microsoft	1	Q Who did Aihua Dai report to?
2	certification program?	2	A Tom Danforth.
3	A No.	3	Q Did Mr. Dai report to Tom Danforth during
4	Q Anything other than FileNet and the	4	the time you reported to Karen Holmes?
5	Microsoft certification program that Mr. Canton	5	A Yes, he did.
6	was able to do that you were not?	6	Q To your knowledge did Mr. Dai ever report
7	A Not that I'm aware of.	7	to Karen Holmes?
8	Q What class was MaryAnn Russo permitted to	8	A To my knowledge, no.
9	take that you were not permitted to take?	9	Q You also mentioned that Mr. Dai was
10	A These are day courses, and it was Visual	10	permitted to take day courses and come in late.
11	Basic.	11	Could you tell me a little bit more about what
12	Q Who was MaryAnn Russo reporting to?	12	you meant by that?
13	A Karen Holmes.	13	A His workday started around 4 o'clock.
14	Q Okay. Did you request to take the Visual	14	Q PM?
15	Basic course?	15	A PM.
16	A The day course, no.	16	Q Do you know what time he left?
17	Q And it's the day course, the Visual Basic	17	A Before 6 o'clock.
18	day course that MaryAnn Russo took?	18	Q Is that what — He worked Monday through
19	A Correct.	19	Friday?
20	Q But you never requested to take that	20	A I believe it was three days a week that he
21	course?	21	did that.
22	A Correct.	22	Q For how long?
23	Q Anything else MaryAnn Russo was permitted	23	A A semester.
24	to take that you were not permitted to take?	24	Q On the other two workday weeks [sic] do

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1 you know what his schedule was like?	1 year?
2 A Seven and a half hour day.	2 Correct. He said he didn't have to make
3 Q Do you know when he came in in the	3 up the time he was away from the office.
4 morning?	4 Q Do you know if he made it up?
5 A Not always, no.	5 A I do not know if he made it up. I know he
6 Q And that's because he came in before you	6 told me that he was not required to make up that
7 came in. Is that correct?	7 time.
8 A That's correct.	8 Q Any other people who took training courses
9 Q Do you know when he left at night?	9 who were allowed to enter into programs that you
10 A Before I did.	10 were not permitted to enter?
11 Q Okay. And that could have been any time,	11 A Enter into programs?
12 or was there a cut-off time where he always left?	12 Q (Counsel nodded.)
13 A I would imagine it was just -- dep -- I	13 A I don't quite understand that.
14 really couldn't say.	14 Q You talked about Mr. Patton -- I'm
15 Q You don't know?	15 sorry -- Rick Canton being able to enter a
16 A Excuse me.	16 Microsoft certification program. I'm just trying
17 Q You don't know?	17 to figure out if there was anyone else other than
18 A Know what?	18 Suzanne Walker, Rick Canton, MaryAnn Russo and
19 Q When he left at the end of the day.	19 Aihua Dai who either entered programs or took
20 A Every day?	20 classes or courses that you were not permitted to
21 Q Right.	21 take.
22 A Sometimes I did.	22 MS. HILL: She didn't testify to that.
23 Q And for the sometimes that you did know,	23 Objection. She did not testify to that. She
24 when did he leave?	24 testified that she couldn't take FileNet. That's
Page 181	Page 183
1 A Before -- I would say around 5:30.	1 the only one she testified that she could not
2 Q Do you know if Mr. Dai worked weekends	2 take. She didn't testify --
3 during this time when he was -- during the	3 MS. MOORE: Ms. Hill --
4 semester where he was taking day courses?	4 MS. HILL: -- that she didn't enter in --
5 A I don't know.	5 couldn't take certification. You're confusing
6 Q And you don't know that because you didn't	6 that, and you're -- Pay attention.
7 work weekends?	7 MS. MOORE: I'm not confusing anything. I
8 A I worked some weekends.	8 didn't say she testified --
9 Q But you didn't routinely work weekends,	9 MS. HILL: You just said --
10 did you?	10 (Simultaneous voices.)
11 A That's correct.	11 MS. MOORE: I didn't interrupt you. Please
12 Q So there would be really no way for you to	12 don't interrupt me.
13 know if he worked weekends or not.	13 MS. HILL: Okay.
14 A If he worked weekends or not?	14 MS. MOORE: I'm not asking -- not
15 Q Right.	15 recharacterizing what she testified to. The
16 A That's correct.	16 record will reflect that. And I would ask that
17 Q After he finished the semester program,	17 you limit your objections simply to form.
18 did he go back to working a regular five-day	18 MS. HILL: That is form. Misstating her
19 workweek reporting in the morning before you came	19 testimony is incorrect.
20 to work and leaving sometime before you did in	20 MS. MOORE: And I would ask that you
21 the evenings?	21 simply state "Objection."
22 A Yes.	22 Q Ms. Griffith, other than Ms. Walker,
23 Q So the 4 o'clock PM to 6 o'clock PM three	23 Mr. Canton, Ms. Russo and Mr. Dai, was there
24 day a week schedule was only say for half of the	24 anyone else that you remember who was able to

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<p style="text-align: right;">Page 184</p> <p>1 take any sort of class or course or was permitted 2 to enter a program which you were not permitted 3 to enter or take?</p> <p>4 MS. HILL: Objection to the form. (Pause.)</p> <p>5 Q Do you understand my question, 6 Ms. Griffith?</p> <p>7 A Yeah.</p> <p>8 Q Can you answer it, please.</p> <p>9 THE WITNESS: Should I answer it?</p> <p>10 MS. HILL: What do you understand her 11 to --</p> <p>12 THE WITNESS: It's confusing.</p> <p>13 MS. HILL: Well, then --</p> <p>14 Q You just said you understood my question.</p> <p>15 MS. MOORE: And I would ask you not to 16 coach the witness.</p> <p>17 Q Do you understand my question?</p> <p>18 A No. It's confusing.</p> <p>19 Q Okay. You mentioned four people who were 20 able to take training courses or programs, and 21 you said you weren't able to take those. Do you 22 remember that?</p> <p>23 A Yes.</p>	<p style="text-align: right;">Page 186</p> <p>1 developed into -- the skill of debugging, that I 2 had developed that skill. And I developed that 3 skill without the FileNet training that the 4 people who wrote the prob -- the programs had, 5 and I didn't have that.</p> <p>6 Q So that sounds like a good thing.</p> <p>7 A What is a good thing?</p> <p>8 Q That you were able to develop --</p> <p>9 A Without the training.</p> <p>10 Q Mm-hmm.</p> <p>11 A Correct.</p> <p>12 Q Other --</p> <p>13 A But it was harder --</p> <p>14 Q I bet.</p> <p>15 A -- I mean without the training.</p> <p>16 Q I bet.</p> <p>17 Anything other than having to sort of 18 teach yourself or use manuals to do the training 19 of yourself to debug? Any other harm that you 20 experienced because you didn't receive the 21 FileNet training?</p> <p>22 A I didn't have manuals.</p> <p>23 Q Were there manuals generally available?</p> <p>24 A No.</p>
<p style="text-align: right;">Page 185</p> <p>1 Q Okay. Those four people were Suzanne 2 Walker, Rick Canton, MaryAnn Russo and Aihua Dai. 3 Is that correct?</p> <p>4 A Correct.</p> <p>5 Q Was there anyone else?</p> <p>6 A That I am aware of, I would have to say 7 no.</p> <p>8 Q Okay.</p> <p>9 MS. MOORE: We'll take a break. (Recess taken.)</p> <p>10 MS. MOORE: Okay. We're back on the 11 record.</p> <p>12 Could you read back the last question and 13 answer. (Record read.)</p> <p>14 Q Ms. Griffith, the fact that you did not 15 have the FileNet training, did that hamper you in 16 any way?</p> <p>17 A Yes.</p> <p>18 Q How?</p> <p>19 A I was required to debug problems that were 20 FileNet related, and I didn't have the training. 21 So I put extra effort in to try to resolve the 22 problems, and Monica Scanlon said that I had</p>	<p style="text-align: right;">Page 187</p> <p>1 Q Did you work with anyone after they'd 2 returned from FileNet training to go over FileNet 3 basics?</p> <p>4 A Say that again, please.</p> <p>5 Q Did you ever work with anyone who did go 6 to the FileNet training to gain some knowledge or 7 basic information about the program?</p> <p>8 A I did.</p> <p>9 Q Who did you work with?</p> <p>10 A Chen, C H E N.</p> <p>11 Q Is that a first name or last name?</p> <p>12 A I'm trying to remember. I believe that's 13 his last name.</p> <p>14 Q Were you told to work with Chen in order 15 to catch up on the FileNet training?</p> <p>16 A Yes.</p> <p>17 Q Did you feel you could go back to Chen 18 with questions about FileNet training?</p> <p>19 A About FileNet training. I'm not quite 20 sure -- You mean the knowledge of --</p> <p>21 Q Yes.</p> <p>22 A -- FileNet?</p> <p>23 Yeah. Yes.</p> <p>24 Q Did you go back to Chen with questions</p>

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1 about FileNet?	1 me if I'm wrong. Okay?
2 A I did.	2 A Okay.
3 Q Other than the training issues we just	3 Q At some time during the summer of 1999 you
4 discussed and the entrance into programs that we	4 had flat tires and were late to work.
5 just discussed, how else did you feel that you	5 A Correct.
6 were discriminated against based upon your race?	6 Q Correct?
7 A I was harassed by Monica Scanlon because	7 And Ms. Scanlon called you into her office
8 of -- She said I had to work on my -- on my	8 to discuss the fact that you were late and had
9 health issues, and I told her I didn't know what	9 flat tires?
10 she meant about working on my health issues. I	10 A That was one subject.
11 received hostile treatment when Monica would call	11 Q Okay. And the incidents that occurred in
12 me in to have me work on my health issues.	12 that office during that conversation in the
13 Q Okay. I'm going to stop you because I'm	13 summer of 1999 is the first time that you felt
14 confused. Okay?	14 that Monica Scanlon harassed you?
15 A Okay. Those were her words.	15 A I didn't say it was the first time. I
16 Q The health issues were --	16 don't know if I could go with that first time.
17 A Exactly.	17 Q Okay. Then let's leave the situation with
18 Q When were you harassed by Ms. Scanlon?	18 the tires and we'll come back to it, and you tell
19 A I believe it was during the summer of	19 me the first time that Ms. Scanlon harassed you.
20 1999. It might have been also 1998, but I	20 A I would have to say, if we're going to say
21 believe it was the summer of 1999.	21 first time, I can remember that incident where
22 (Pause.)	22 she called me into her office and said that --
23 Q How were you harassed by Ms. Scanlon? And	23 about the flat tires. She wanted to know if I
24 specifically what I'm asking you is what was the	24 was true -- if I truly had flat tires, and I told
Page 189	Page 191
1 first time you were harassed by Ms. Scanlon?	1 her "Yes. I brought receipts in that were
2 A It was during a meeting when she called me	2 date/time stamped, and you wouldn't look at
3 into her office, and she wanted know if I	3 them."
4 would -- truly had flat tires on 128 when I was	4 Q Okay.
5 traveling to work on 128. I told her "Yes. I	5 A And then she said that "Well, we want to
6 brought receipts that were date and time stamped	6 talk about what we can do about you and your
7 from the tire people and also AAA, and you	7 health." And I'm trying to get this as accurate
8 refused to look at them."	8 as possible.
9 Monica's response was hostile. "I didn't	9 Q I understand. Was there anything else?
10 ask you to show me any receipts."	10 A It was more to the conversation, but --
11 And my response was "How can I prove	11 Q Okay. So the first time you felt harassed
12 otherwise, that these things happened, when you	12 by Monica Scanlon was when she brought you into
13 refuse to see my evidence that I had a flat tire?	13 her office to talk to you about being late and
14 They were cleaning -- sweeping 128 and sweeping	14 the flat tire incident.
15 up a lot of nails, and I was not the only person	15 A Correct.
16 pulled over to the side of the road because of	16 Q Is that correct? Okay.
17 flat tires."	17 Did you want to say something?
18 Then -- Oh, you have another question?	18 A Well, I thought I was going to say the
19 Q No. Keep going.	19 next time.
20 A During that meeting -- You have to ask me	20 Q Okay. One second. We'll get there.
21 a question. I'm not sure what you want --	21 So at some point during the summer of 1999
22 Q Okay. That's fine.	22 Monica tells you to come into her office. She
23 I'm going to try to characterize for you	23 wants to talk to you about whether or not you
24 what I understood you to be saying, and you tell	24 really had flat tires on 128. Correct?

16 (Pages 188 to 191)

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<p style="text-align: right;">Page 256</p> <p>1 Q Any other way you felt like you were 2 retaliated against for any reason? 3 A I feel I was retaliated against when I 4 was -- when I was instructed to lift heavy carts 5 and computer parts, which was something that was 6 not something that a heart patient, I believe, 7 would be asked to do. 8 Q Did your doctor tell you not to lift 9 things? 10 A Yes. 11 Q Which doctor? 12 A The -- No. What the point in time? 13 Q At the time in which you said you were 14 lifting things. 15 A You mean at the time I was asked to lift 16 things? 17 Q Yes. 18 A Okay. I had been told not to lift 19 anything heavier than ten pounds. This was after 20 my surgery. And I hadn't been told anything 21 different. And when I went back to my doctor 22 after the incident where I was asked to lift 23 heavy computer equipment and things, I went back 24 to my doctor for a clarification on that. And</p>	<p style="text-align: right;">Page 258</p> <p>1 you has been marked as Exhibit 2. I've given 2 your counsel a copy as well. At the bottom of 3 the page are the letters "DE" and the numbers 4 "0272." This is an E mail. The title line has 5 "Griffith, comma, Bernadine T." 6 Would you review the document, please. 7 A Yes. 8 Q Okay. Would you read, please, what it 9 says in the second message in the center of the 10 page where it says "Bernadine." 11 A "Bernadine, see me about the stuff in the 12 server room that may belong to Image. Thanks. 13 Karen." 14 Q Did you see Karen about it? 15 A Yes. 16 Q And what did you -- what did she say to 17 you? 18 A She told me to empty the crates. 19 Q Okay. Had you told Karen that you 20 couldn't lift anything or that you couldn't lift 21 more than ten pounds? 22 A No, I didn't. 23 Q Okay. At the time she asked you to help 24 unpack did you say to her "I can't do this. I</p>
<p style="text-align: right;">Page 257</p> <p>1 she wrote that I was to have a lift limit of, I 2 believe, ten pounds. 3 Q And who -- which doctor was this? 4 A Doctor Moner, M O N E R. 5 Q And when did you go to see her for this 6 clarification? 7 A This would have been in 1999, I believe 8 around August or September. 9 Q Okay. Who told you to lift something? 10 A Karen Holmes. 11 Q What did she tell you to lift? 12 A I was supposed to empty out industrial 13 crates that were rented by the company. 14 Q Why -- Did she tell only you to do this? 15 A She sent me a memo. I don't know if she 16 told other people. But you asked me who -- who 17 told me, and it was Karen Holmes. 18 Q She sent you a memo? 19 A She sent me a memo. 20 Q Was it an E mail? 21 A It was an -- Yes, in E mail form. 22 MS. MOORE: Could you mark this, please. 23 (Exhibit 2 marked for identification.) 24 Q Ms. Griffith, right now what I'm showing</p>	<p style="text-align: right;">Page 259</p> <p>1 can't lift more than ten pounds"? 2 A I did tell her that I shouldn't be lifting 3 that -- those crates. 4 Q Did you tell her why? 5 A I believe I did. 6 Q Did you tell her you weren't going to do 7 it? 8 A No. 9 Q You did it anyway? 10 A No. 11 Q You didn't do it? 12 A I did not. 13 Q Why didn't you do it? 14 A Because I knew it would probably have 15 me -- hurt me physically, and I didn't want to 16 have another heart attack. 17 Q Did she ask you why you weren't going to 18 do it? 19 A No. 20 Q Was that the end of your conversation, 21 just that you weren't going to do it? 22 A I didn't -- It -- Okay. I told her that 23 it wouldn't be good for me to do this. 24 Q Okay.</p>

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1	(Pause.)	1	A Retaliation for something I did?
2	A I -- I have to get rest. I have to -- I	2	Q Mm-hmm.
3	may not sleep constant -- I mean like a	3	A I don't know of anything that I would have
4	regular -- like every day you go to bed or you go	4	been re -- that would warrant a -- something that
5	to sleep or what have you, but I have to maintain	5	I did as far as retaliation.
6	some rest. I have to get rest. And the periods	6	Q Do you feel like you were retaliated
7	of rest are sometimes frequent.	7	against by anybody else?
8	Q Anything else?	8	A I feel I was re -- mistreated, that I
9	A It's been such a standard thing until -- I	9	didn't receive the same treatment that other
10	think that's about it.	10	people in the group or for that matter within
11	Q Okay.	11	the -- the company. I would be -- I don't know
12	A You know, assertions. You know, assert	12	if anyone else was told to justify their need for
13	yourself physically.	13	a work break. Considering how many and the
14	Q You wrote something down.	14	duration of some of the smoking breaks that went
15	A Yeah. The company provided breaks for --	15	on with the people there, I know not -- of not
16	as a company benefit. I was required to get a	16	one instance where a smoker was told to bring a
17	note from my doctor justifying my need to take an	17	note from their doctor to justify them standing
18	occasional ten-minute break, work break.	18	outside smoking.
19	Q And you felt that was evidence of racial	19	Q Okay. Other than --
20	discrimination?	20	A And I --
21	A Yes. And also disability discrimination.	21	Q I'm sorry. Go ahead.
22	Q Okay. And who required you to do that?	22	A That -- That's okay.
23	A Karen Holmes.	23	Q Other than the issue of the raise, is
24	Q And why did you think it was racial and	24	there anything -- is there any other instance of
	Page 269		Page 271
1	disability discrimination?	1	retaliation that you can recall for any reason?
2	A Because other people were not being asked	2	A I think I was retaliated against because
3	to justify their need to take a ten-minute work	3	of my race and also my disability when I was
4	break. And after I -- the first -- my doctor	4	fired for being absent three days in September.
5	wrote the -- or type -- printed his note on	5	I was told that I -- I was given an FMLA
6	letter -- on paper that was not letterhead, and I	6	certificate. I was told I had 12 weeks under --
7	was required to go back and get letterhead, get	7	protection under the FMLA. There was text in the
8	him to write his note, his request for me to have	8	employee manual that said FMLA ran for -- I mean
9	an occasional ten-minute work break on	9	you had 12 weeks of protection and that you may
10	letterhead. So that was two appointments that I	10	have to use vacation time or personal business
11	had to do for a company benefit that everyone got	11	for absences that were not paid.
12	without any say-so --	12	That text gave me the impression that if I
13	Q You --	13	were out on -- during my FMLA term of 12 weeks,
14	A -- without --	14	if I had, say, to be out for something that was
15	Q You had actual appointments for that?	15	not covered by CU as far as the sick time policy,
16	A I had -- Yes.	16	the sick time policy and then the short-term
17	Q You didn't call in and request a letter?	17	policy and then the long-term policy, that I
18	A I did not.	18	would have to -- in order to not experience a
19	Q Neither time?	19	paycheck missing one day or what have you, I
20	A Neither time.	20	would have to use a vacation day for that. So
21	Q Any other instances that you feel like	21	that gave me the impression also that I was -- I
22	were evidence of retaliation, something that	22	had 12 weeks of protection, like Michael Sisto
23	people did to you specifically in retaliation for	23	told me, to be absent --
24	something that you did?	24	Q Did you -- .

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1 other personnel told me that the other managers, the
 2 managers were instructed to not give, not use, at a
 3 certain time -- excuse me. I'm sorry. Start over
 4 again.

5 Personnel told me in a meeting that
 6 performance reviews given in year 2000 were not to
 7 be given on forms that the 1999 reviews were given
 8 on.

9 So, I'm saying that I was treated
 10 differently from what the other employees that
 11 received performance reviews in 2000.

12 Q. And you felt that was because of your race?

13 A. Yes.

14 Q. Okay. You also mentioned previously that
 15 you felt the fact that you never received your
 16 retroactive raise to 1999 was evidence of racial
 17 discrimination, is that correct?

18 A. Yes.

19 Q. You also testified that the fact that Ellen
 20 Elliot and Mary Russo were allowed to arrive at work
 21 later than you was evidence of racial
 22 discrimination?

23 A. I believe I said that they arrived around
 24 the same time that I did, and they left earlier than

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1 your FMLA leave?
 2 MS. HILL: Objection.
 3 A. No, I didn't say that.
 4 Q. Do you believe you were fired -- do you
 5 believe your being fired for using your FMLA leave
 6 was evidence of racial discrimination?

7 A. And disability discrimination, racially and
 8 disability discrimination.

9 Q. Why racial?

10 A. Because other employees were not -- Dan
 11 Paige is an employee on the same floor that I was
 12 on. And Dan Paige told me that his doctor wrote a
 13 note to the company requesting that he be allowed to
 14 leave work any time he felt the need for it.

15 Dan Paige was still an employee when I
 16 was fired.

17 Dan Paige's absences -- I witnessed
 18 myself him leaving -- were not being tracked or
 19 regulated the way my absences were being tracked.

20 Dan Paige was a recovering cancer
 21 patient.

22 I had an ongoing heart condition. And I
 23 considered that his treatment and the treatment that
 24 I received, I considered my treatment to be racial

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1 and also disability.

2 Q. Who did Dan Paige report to, do you know?

3 A. I can't recall his name.

4 Q. Do you know --

5 A. Her name.

6 Q. Did he report to Karen Holmes?

7 A. No.

8 Q. Did he report to Mike Sisto?

9 A. No.

10 Q. Did he report to Monica Scanlon?

11 A. No.

12 Q. How do you know that his absences weren't
 13 tracked?

14 A. I know what Dan Paige told me.

15 Q. Did Dan Paige tell you that his absences
 16 were not recorded?

17 A. Dan Paige told me that he didn't have to
 18 make up any of his time because it was a
 19 health-related absence from the job.

20 Q. How do you know that his absences weren't
 21 tracked?

22 A. All I am saying is what Dan Paige told me.

23 And that's the extent of my knowledge.

24 Q. So, you don't necessarily know that his

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1 I did. They left earlier -- they left without
 2 putting in a seven-and-a-half-hour workday.

3 Q. And you felt that that was racially
 4 discriminatory?

5 A. Right. Because they were allowed to do it
 6 and not I.

7 I had an accommodation agreement that
 8 was not being honored. And they didn't have to have
 9 an accommodation agreement in order to have those
 10 hours.

11 Q. You also indicated that Karen Holmes'
 12 requiring you to get a doctor's note in order to
 13 take breaks was racial discrimination?

14 A. Yes.

15 And disability.

16 Q. Okay.

17 A. It was a company policy.

18 Q. And I also have written down that you
 19 testified that you felt it was racial discrimination
 20 that you were fired for using your FMLA leave.

21 Is that correct?

22 A. Say that again, please.

23 Q. You felt it was an incidence of racial
 24 discrimination that you were terminated for using

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1	absences weren't tracked?	1	protection of long-term disability insurance in case
2	A. That's correct.	2	I became disabled on a long-term basis, that certain
3	Q. Anything other than what I've mentioned	3	provisions would be provided to me because of this
4	today and you've mentioned in the past that is an	4	insurance that I was taking.
5	instance or evidence of the fact that you were	5	The company -- nowhere in any document
6	racially discriminated against?	6	that was given to me did it say that I could not be
7	A. I can't recall anything else.	7	sick, that I could not take a sick day during the
8	Q. You don't recall any other comments to you?	8	period I was on probation.
9	A. Other than the tar baby instance?	9	Michael Sisto's letter of July -- excuse
10	Q. Right.	10	me -- September 27, 2000 stated as one of the
11	A. And up yours?	11	reasons that I was terminated was because I called
12	Q. Uh-huh.	12	in sick September, I believe it was 11, 12 and 13.
13	A. If my memory is jogged, maybe I would, but	13	His reason for terminating me within
14	at this point...	14	that letter said because I called in sick in
15	Q. Do you recall overhearing comments said	15	violation of my probation.
16	about other people but not you that were racially	16	And I'm saying, that was not my
17	motivated?	17	probation. Nowhere did it say that I could not be
18	MS. HILL: Objection to the form.	18	sick during the entire time that I was on probation.
19	A. No.	19	The insurance premium for disabled, long-term
20	Q. Did you understand my question?	20	disability was being taken out of my check.
21	A. No.	21	I even had a payment taken out of the
22	Q. You didn't understand my question?	22	last check that was cut especially to give to me
23	A. I understood your question.	23	when I was terminated, at the termination meeting,
24	The answer is no.	24	and a disability payment was taken out of that.
	Page 345		Page 347
1	Q. Okay. Thanks. Okay.	1	Q. Okay.
2	I want to do the same thing with racial	2	A. And I didn't know after I was, after I
3	discrimination, I want to do that with disability	3	became disabled, after I was fired, if I was covered
4	discrimination to make sure we've got everything.	4	or not.
5	So, I'm going to go through, and you can	5	And no documentation that the company
6	tell me yes or no.	6	sent me indicated one way or the other if I still
7	I think you said this just a moment ago	7	had coverage from the insurance premiums that I was
8	that Ellen Elliot and Marianne Russo having more	8	paying for when they terminated me.
9	flex time was evidence of disability discrimination?	9	Also, I was told by Michael Sisto that
10	A. In the sense that I had to submit proof from	10	FMLA would give me, I believe it was 12 weeks or 14
11	my doctors and get approval, and they didn't.	11	weeks, I'm not sure, of protection, that sick
12	Q. Do you know for a fact that they didn't?	12	absences would not be charged against me. In other
13	A. I know what they said to me.	13	words, occurrences or what have you of absences
14	Q. Okay. And what they said was they didn't	14	would not be charged against me.
15	have to submit anything from a doctor?	15	And that proved not to be true because
16	A. Yes.	16	two weeks after I took sick time, I was terminated
17	Q. You also mentioned that you felt like your	17	with a letter saying that the reason was because I
18	termination was disability discrimination.	18	called in sick.
19	Can you tell me exactly why?	19	Q. Okay. I'm going to pick that apart a little
20	A. It was disability discrimination because I	20	bit and ask you some questions about some things you
21	had an insurance premium being deducted from my	21	just said.
22	check, long-term disability insurance premium.	22	A. Certainly.
23	I felt that the company created fraud by	23	Q. On September 11, September 12 and September
24	allowing, telling me that if I were to purchase the	24	13 of 2000, when you were ill, did you believe those

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1 days should have been covered under your long-term
 2 disability plan?

3 A. No.

4 May I expand?

5 Q. Sure.

6 A. OneBeacon had a sick time policy, short-term
 7 disability, which was five days or more, and then
 8 long-term disability that clicked in off the
 9 short-time disability phase.

10 So, I believed that I was covered under
 11 those three plans, sick time plans.

12 Q. Okay. But the three days that you were out,
 13 the 11th, the 12th and the 13th –

14 A. Fell under Commercial Union -- OneBeacon --

15 Q. I know what you're talking about.

16 A. -- OneBeacon's sick time policy.

17 Q. Okay.

18 A. That's what I believed.

19 Q. Was it your understanding that the FMLA
 20 covered --

21 A. Excuse me.

22 Q. Sure.

23 A. I'd like to qualify that last statement.

24 I believe that I still had sick time

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1 retaliation, the fact that you didn't receive it was
 2 retaliation.

3 Is that accurate?

4 A. Yes.

5 Q. You mentioned the fact that you were forced
 6 to lift heavy carts and computer parts was
 7 retaliatory?

8 A. Yes.

9 Q. The fact that you were fired for using or
 10 being out sick, you felt that was retaliatory as
 11 well?

12 A. Yes.

13 Q. Was there anything else?

14 A. Not at this time.

15 Q. I'm going to ask you some more questions
 16 about your disability.

17 Okay?

18 A. Okay.

19 Q. At any time, did you tell or have a
 20 physician tell OneBeacon that you were disabled to
 21 the point that you couldn't perform certain tasks?

22 A. Say that again, please.

23 Q. At any time, did you tell them personally or
 24 instruct your physician to tell anyone at OneBeacon

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1 policy privileges, FMLA sick time privileges for the
 2 September 11, 12th and 13th.

3 It was not in my head to indicate what
 4 absence, what category those absences would have
 5 been placed in. That was something that personnel
 6 did or Karen did or Michael did.

7 My only obligation was to report that I
 8 was sick, use the category report that I was sick.

9 And I believe that I was covered, more
 10 than covered by what Michael Sisto told me.

11 Q. Did Michael Sisto give you any documents
 12 that talked to you about the FMLA?

13 A. No, he didn't.

14 Q. Did he refer you to a person or make an
 15 appointment for you to talk to somebody about the
 16 FMLA?

17 A. No, he didn't.

18 Q. Now, I want to talk to you about retaliation
 19 and things that you've recounted that happened and
 20 you felt they were retaliation.

21 Okay?

22 A. Okay.

23 Q. You mentioned the retroactive raise to 1999
 24 that you never received. You felt that that was

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1 that you were disabled to a point where you couldn't
 2 perform certain tasks?

3 A. I did not.

4 By certain tasks, you mean the tasks –
 5 can you tell me what you mean by certain tasks?

6 Q. I mean anything.

7 You couldn't do anything, any sort of
 8 activity?

9 A. Within my job description or outside of my
 10 job description?

11 Q. Within your job description.

12 A. I did not.

13 Q. We've talked about some of the
 14 accommodations you requested?

15 A. Yes.

16 Q. Whether they were received or not. I want
 17 to make sure we're on the same page.

18 Earlier in your testimony in February, I
 19 believe, you mentioned that Mr. Freeman granted you
 20 late arrival, is that correct?

21 A. No, no.

22 Q. Okay. So, when you requested to come in
 23 late and Mr. Freeman was your supervisor, you
 24 weren't permitted flexibility in the time of your

19 (Pages 348 to 351)

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<p>1 During what time did Michael Sisto not 2 comply with the request as set forth by Kathleen 3 Moynihan in the memo?</p> <p>4 A. When he -- before and after Monica Scanlon's 5 employment, during the time I reported to Karen 6 Holmes, Monica Scanlon, Michael Sisto.</p> <p>7 Q. Do you know if Michael Sisto was aware of 8 your hour restrictions?</p> <p>9 A. In -- by -- I don't know.</p> <p>10 Q. Okay. Was there ever a time when you 11 reported directly to Michael Sisto?</p> <p>12 A. No.</p> <p>13 Q. So, there was always someone in between you 14 and Michael Sisto?</p> <p>15 A. Correct.</p> <p>16 Q. And that person in between you and Michael 17 Sisto, were they your primary supervisor?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. They were the person that saw you on 20 a day-to-day basis?</p> <p>21 A. Yes.</p> <p>22 Q. So, when you described or when you said that 23 Michael Sisto didn't honor your time requirements, 24 I'm curious as to how he didn't do that if he really</p>	<p>1 And in that meeting, I had documents 2 that I was ready to submit to him so that he could 3 see that I did complete my job assignments, and I 4 didn't have any problems in completing the 5 assignments.</p> <p>6 And I also indicated to him about the 7 Saturday projects that were given to me and also 8 what my hours were at that time.</p> <p>9 Q. Okay. But that was all when you were 10 reporting to Monica directly, correct?</p> <p>11 (Interruption.)</p> <p>12 A. Okay. By that, you're referring to what I 13 was telling Michael Sisto?</p> <p>14 Q. Correct.</p> <p>15 A. Right. Because Michael Sisto attached to my 16 file the memo from Monica Scanlon with the 17 allegations that were in them.</p> <p>18 I took the first opportunity I had to 19 try to prove what my point was and that I did do my 20 work.</p> <p>21 Q. Okay. Let me see if I understand what 22 you're saying.</p> <p>23 Are you saying that some time in 2000, 24 you spoke with Michael Sisto about the fact that in</p>
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<p>1 didn't see you on a day-to-day basis?</p> <p>2 A. I had forgotten in a meeting that I had with 3 Karen Holmes and Michael Sisto, I informed him of 4 what my accommodations were.</p> <p>5 I also informed him that I had a 6 handicap placard that was issued by the State of 7 Massachusetts. It was during that meeting.</p> <p>8 Q. Okay. Was this a meeting that took place in 9 2000?</p> <p>10 A. Yes.</p> <p>11 Q. My understanding in 2000 was that your hours 12 were as reflected in Exhibit 4, from 10:00 a.m. to 13 6:15 p.m.?</p> <p>14 A. Not all the time.</p> <p>15 Wait a minute. I'm sorry.</p> <p>16 (Pause.)</p> <p>17 A. Okay. I informed -- in a meeting that I had 18 with Michael Sisto, that was in 2000, I was 19 attempting to address the issues that Monica Scanlon 20 referred to in her memo to, that should go to my 21 file, where she -- and also my performance review.</p> <p>22 I was attempting in that meeting to 23 inform -- I didn't know what Michael Sisto knew or 24 didn't know.</p>	<p>1 1999 and before then, you had had a certain time, 2 you had certain time restrictions that either were 3 or were not honored?</p> <p>4 A. Correct.</p> <p>5 Q. So, am I correct then in saying that Michael 6 Sisto never, never violated your restrictive hours?</p> <p>7 A. Michael Sisto did not, that I am aware of, 8 have input in that area.</p> <p>9 I was attempting to get Michael Sisto to 10 see that I should not have been placed on probation.</p> <p>11 Q. Okay.</p> <p>12 A. And I, at that time, in 2000, I was being 13 placed on probation from allegations that came from 14 1999.</p> <p>15 Q. Okay. We'll get to that.</p> <p>16 A. Okay. But at that point, to answer, to go 17 back to answer your questions, that's when I let 18 Michael Sisto know that I had certain hours and 19 restrictions that were not honored, and that I did 20 my job anyway.</p> <p>21 Q. But he wasn't the person who violated the 22 restrictive time frame, is that correct?</p> <p>23 A. Well, in a sense, he was, because Monica 24 reported to him.</p>

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1 Q. But he was never there on a day-to-day basis
 2 to say to you, you know, come in before 9:30 and
 3 stay after 7:00?

4 A. I don't know what his duties were or what
 5 duties he chose to involve himself in or not, but I
 6 was concerned with the duties of him issuing to me
 7 that I was late.

8 He said that to me, that I was tardy and
 9 that I had these absences.

10 Q. Okay.

11 A. And that's when he got involved in that and
 12 saying that to me.

13 Then that's when I got involved in
 14 trying to prove to him that this did not happen.

15 I can remember asking Michael Sisto
 16 directly, what method did Karen Holmes use to keep
 17 attendance, and where was the attendance report that
 18 they used as a basis to put me on probation.

19 Q. Okay. Ms. Griffith, I'm going to stop you
 20 right now, just because I don't want us to get ahead
 21 of ourselves.

22 A. Okay.

23 Q. We're going to talk about the meetings in
 24 2000. I think they were in the summer of 2000 and

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1 honor -- no -- support my doctor's recommendation.

2 Q. Okay. Right after I asked you that, I asked
 3 if there was anyone else who told you they would
 4 support any kind of accommodation or would honor a
 5 request for an accommodation, and then didn't
 6 deliver on that statement.

7 And you mentioned Monica Scanlon,
 8 Michael Sisto and Karen Holmes.

9 A. Exactly.

10 Q. And I just -- with regard to Michael Sisto,
 11 did Michael Sisto ever tell you he was going to
 12 honor some request for an accommodation and then not
 13 do it?

14 A. Michael Sisto refused to discuss with me the
 15 accommodation agreement that I had from personnel.
 16 That's as factual as I can get.

17 Q. Okay. Now, are you -- when you say that,
 18 are you saying that in 2002, during a meeting,
 19 Michael Sisto would not engage you about the
 20 accommodations that were granted in 1999?

21 A. Right.

22 And all this came about during the
 23 January, first of the year, around the performance
 24 review time.

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1 being on probation, but right now, I want to make
 2 sure we're just talking about your accommodations.

3 A. And who knew what and when?

4 Q. Right. And how we got here, I asked you a
 5 question whether or not someone at OneBeacon or any
 6 of its other names promised you some sort of
 7 accommodation and then didn't deliver it for you.

8 And you said to me that Kathleen
 9 Moynihan did because she wrote this memo and
 10 included the time frame, and that for a week after
 11 she had written the memo, when Ed Freeman was your
 12 supervisor, he didn't abide by that time frame.

13 And then you mentioned --

14 A. I had a problem with the promise. I
 15 remember saying that, because I didn't know if
 16 Kathleen Moynihan writing that memo was, in essence,
 17 a promise by the company.

18 Q. Okay. That's fair enough.

19 A. So, that's the only stipulation that I would
 20 put on that.

21 Q. Okay.

22 A. Because I don't know if that was, indeed, a
 23 promise.

24 All I know is that they said they would

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1 Q. Okay. Other than that, was there a time
 2 when Michael Sisto didn't honor his statement to you
 3 that he would provide you with some sort of
 4 accommodation?

5 A. Yes.

6 Well, he promised me that he would give
 7 me an attendance report that he based his, that he
 8 based his -- I'm trying -- I'm sorry. I lost track
 9 -- that he based his, the written warning on.

10 Q. Okay. When you talk about the attendance
 11 report, do you feel like the attendance report was
 12 some sort of accommodation, or was this just an
 13 instance of him saying he would do something and
 14 then didn't do it?

15 A. You mean that after him giving -- I'm not
 16 sure what you're saying.

17 Are you saying the act of him giving me
 18 an attendance report is the promise, I mean, in the
 19 same line as accommodation?

20 Q. Let's start over. The question I asked you
 21 was this.

22 Was there ever a time that Michael Sisto
 23 said to you that he would honor or support your
 24 request for an accommodation and then he didn't do